

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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APR 15 2013

STATE OF ILLINOIS
Pollution Control Board

ABP PROPERTIES, LLC,)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 13- 58
(LUST Appeal – Ninety Day
Extension)

NOTICE



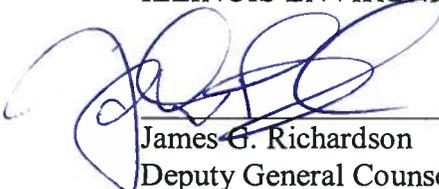
ORIGINAL

John Therriault
Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

William D. Ingersoll
Brown, Hay & Stephens, LLP
P.O. Box 2459
Springfield, Illinois 62705

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY


James G. Richardson
Deputy General Counsel

Dated: April 10, 2013
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ABP PROPERTIES, LLC,)	
Petitioner,)	
)	
v.)	PCB No. 13- 58
)	(LUST Appeal – Ninety Day Extension)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

**REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James G. Richardson, Deputy General Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to July 11, 2013, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

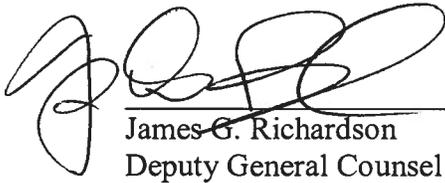
1. On March 5, 2013, the Illinois EPA issued a final decision to the Petitioner.
2. On April 2, 2013, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief the Petitioner did receive the final decision on or about March 8, 2013.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel

Dated: April 10, 2013

1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829

PAT QUINN, GOVERNOR

JOHN J. KIM, DIRECTOR

217/524-3300

CERTIFIED MAIL

MAR 05 2013

7011 1150 0001 0862 0205

ABP Properties, LLC
Attention: Yogi Bhardwaj
1790 Nations Drive, #213
Gurnee, Illinois 60031

RECEIVED

BY: *[Signature]*

Re: LPC# 0290105028 -- Coles County
Charleston / ABP Properties, LLC (Marathon #7092)
734 18th Street (Route130)
Leaking UST Incident No. #20120616
LUST Technical File

Dear Mr. Bhardwaj:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the response letter submitted for the above-referenced incident. This letter, dated November 12, 2012, was received by the Illinois EPA on November 13, 2012. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Based on the information currently in the Illinois EPA's possession, this incident is not subject to Title XVI of the Act or 35 Ill. Adm. Code 731, 732, or 734. Therefore, the Illinois EPA Leaking Underground Storage Tank Section has no reporting requirements regarding this incident.

The waste characterization sample collected, only confirms that BETX concentration near the pump islands is greater than the Tier I Remediation Objectives. Previously investigations had already revealed BETX contaminations between the pump islands and 18th Street. When, in fact, the BETX concentrations in SB-1 are lower than previous soil investigations in that area. Therefore, the BETX concentrations found in SB-1 are evidence of soil contamination from the older LUST incident, not a new release.

This letter, however, does not address whether any remaining contamination at this site is being managed to protect human health or the environment. Any remaining contamination not the subject of this letter may be subject to other provisions of the Act.

If you wish to address any remaining contamination, or portion thereof, at the site and want Illinois EPA concurrence that any cleanup measures taken are protective of human health, you may wish to consider participation in the Illinois EPA's Site Remediation Program. The Site

4302 N. Main St., Rockford, IL 61103 (815) 987-7760
595 S. State, Elgin, IL 60123 (847) 608-3131
2125 S. First St., Champaign, IL 61820 (217) 278-5500
2009 Mall St., Collinsville, IL 62234 (618) 346-5120

9511 Harrison St., Des Plaines, IL 60016 (847) 294-4000
113, Peoria, IL 61614 (309) 693-5462
2309 W. Main St., Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph, Suite 10-300, Chicago, IL 60601 (312) 814-6026

Remediation Program has been developed to provide Illinois EPA guidance, assistance and determinations of successful completion for the voluntary conduct of remediation actions. The objectives of the program are as follows:

1. To provide Illinois EPA experience and assistance towards a timely, effective, and resource efficient cleanup of soil and/or groundwater contamination; and
2. To provide proper conclusion of participation in the program resulting in the issuance of either a No Further Remediation Letter or a Release of Responsibility Letter by the Illinois EPA.

Under the Site Remediation Program the Illinois EPA is authorized, and may agree, to provide review and evaluation services for actions at sites where hazardous substances, pesticides or petroleum may be present for which the owner or operator requested such services in writing. Any other person similarly may request review and evaluation services for actions at the site so long as that other person has provided the Illinois EPA with the written permission of the owner or operator to conduct those actions. Participants in the Program are required to reimburse the Illinois EPA for such services.

If you have any questions or require further assistance, please contact the Illinois EPA project manager, Eric Kuhlman, at 217-785-5715

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC:EK:P\

c: CWM Company
Brian Bauer
BOL File

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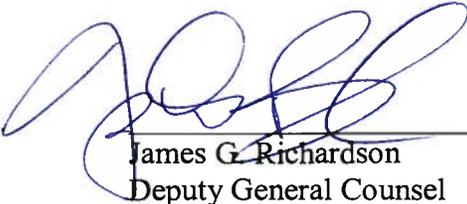
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on April 10, 2013 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by first class mail of the United States Postal Service upon the persons as follows:

John Therriault
Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

William D. Ingersoll
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